

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

Melissa Baily (Bar No. 237649)

3 melissabaily@quinnemanuel.com

James Judah (Bar No. 257112)

4 jamesjudah@quinnemanuel.com

Lindsay Cooper (Bar No. 287125)

5 lindsaycooper@quinnemanuel.com

50 California Street, 22nd Floor

6 San Francisco, California 94111-4788

Telephone: (415) 875-6600

7 Facsimile: (415) 875-6700

8 Marc Kaplan (*pro hac vice*)

9 marckaplan@quinnemanuel.com

191 N. Wacker Drive, Ste 2700

10 Chicago, Illinois 60606

Telephone: (312) 705-7400

11 Facsimile: (312) 705-7401

12 *Attorneys for GOOGLE LLC*

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16
17 GOOGLE LLC,

18 Plaintiff,

19 vs.

20 SONOS, INC.,

21 Defendant.

CASE NO. 3:20-cv-06754-WHA

Related to CASE NO. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS OPPOSITION TO
SONOS, INC.'S MOTION FOR
SUMMARY JUDGMENT REGARDING
GOOGLE'S CONTRACT-RELATED
CLAIMS**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Google LLC (“Google”) hereby requests to file under seal portions of its Opposition to Sonos, Inc.’s (“Sonos”) Motion for Summary Judgment Regarding Google’s Contract-Related Claims (“Opposition”). Specifically, Google requests an order granting leave to file under seal the portions of the documents listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Opposition	Portions highlighted in yellow and green	Google
Exhibit 5	Entire document	Google
Exhibit 9	Entire document	Google
Exhibit 10	Entire document	Google
Exhibit 16	Entire document	Google
Exhibit 17	Entire document	Google
Exhibit 18	Entire document	Google
Exhibit 19	Entire document	Google
Exhibit 21	Entire document	Google
Exhibit 33	Entire document	Google
Exhibit 35	Entire document	Google
Exhibit 36	Entire document	Google
Exhibit 37	Entire document	Google
Exhibit 38	Entire document	Google
Exhibit 40	Entire document	Google
Exhibit 41	Entire document	Google

1 II. LEGAL STANDARD

2 Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal
3 must file an administrative motion that articulates the applicable legal standard and reasons for
4 keeping a document under seal, includes evidentiary support from a declaration where necessary,
5 and provides a proposed order that is narrowly tailored to seal only the sealable material.

6 “Historically, courts have recognized a ‘general right to inspect and copy public records and
7 documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447
8 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 &
9 n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of
10 access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual Auto. Insurance Company*,
11 331 F.3d 1122, 1135 (9th Cir. 2003)).

12 The Ninth Circuit has recognized that two different standards may apply to a request to seal
13 a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v.*
14 *Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing
15 *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The
16 compelling reasons standard applies to any sealing request made in connection with a motion that
17 is “more than tangentially related to the merits of a case.” *Id.* Accordingly, courts in this district
18 apply a “compelling reasons” standard to a sealing request made in connection with a motion for
19 summary judgment. *See, e.g., Edwards Lifesciences Corp. v. Meril Life Scis. Pvt. Ltd.*, No. 19-CV-
20 06593-HSG, 2021 WL 5233129, at *4 (N.D. Cal. Nov. 10, 2021); *Baird v. BlackRock Institutional*
21 *Tr. Co., N.A.*, No. 17-CV-01892-HSG, 2021 WL 105619, at *5 (N.D. Cal. Jan. 12, 2021).

22 III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION

23 Material that is confidential and could harm a litigant’s competitive standing if disclosed
24 may be sealed under the compelling reasons standard. *Icon-IP Pty Ltd. v. Specialized Bicycle*
25 *Components, Inc.*, No. 12-cv-03844-JST2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015)
26 (information “is appropriately sealable under the ‘compelling reasons’ standard where that
27 information could be used to the company’s competitive disadvantage”); *In re Qualcomm Litig.*,
28 No. 3:17-CV-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (concluding that

1 “compelling reasons exist to seal . . . information subject to confidentiality and non-disclosure
 2 provisions” because “[s]uch insight could harm the parties in future negotiations with existing
 3 customers, third-parties, and other entities with whom they do business”).

4 The portions of Google’s Opposition highlighted in green and yellow as well as Exhibits 5,
 5 9, 10, 16, 17, 18, 19, 21, 33, 35, 36, 37, 38, 40, and 41 contain confidential business agreements and
 6 licensing negotiations that are not public. Public disclosure of this information would harm
 7 Google’s competitive standing and its ability to negotiate future agreements by giving competitors
 8 access to Google’s highly confidential business thinking and asymmetrical information about
 9 Google’s collaboration strategies to other entities. If such information were made public, Google’s
 10 competitive standing would be significantly harmed. Google has therefore designated this
 11 information as HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY under the protective
 12 order (Dkt. No. 92). A less restrictive alternative than sealing would not be sufficient because the
 13 information sought to be sealed is Google’s proprietary and confidential business information but
 14 has been utilized in support of its Google’s Opposition. I also understand that this Court has
 15 previously granted sealing of the same and/or similar information. *See, e.g.*, Dkt. 39.

16 **IV. CONCLUSION**

17 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
 18 Administrative Motion to File Portions of its Opposition Under Seal.

19 DATED: February 21, 2023

QUINN EMANUEL URQUHART & SULLIVAN,
 LLP

20 By: /s/ James Judah

21 Charles K. Verhoeven (Bar No. 170151)

22 charlesverhoeven@quinnemanuel.com

23 Melissa Baily (Bar No. 237649)

24 melissabaily@quinnemanuel.com

25 James Judah (Bar No. 257112)

26 jamesjudah@quinnemanuel.com

27 Lindsay Cooper (Bar No. 287125)

28 lindsaycooper@quinnemanuel.com

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Marc Kaplan (*pro hac vice*)
marckaplan@quinnemanuel.com
191 N. Wacker Drive, Ste 2700
Chicago, Illinois 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

Attorneys for GOOGLE LLC

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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on February 21, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: February 21, 2023

By: /s/ James Judah
James Judah